



STATE OF DELAWARE

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June 12, 2015

STAFF MEMORANDUM

TO: The Chairman and Members of the Commission

FROM: Toni Loper, Public Utility Analyst II 

SUBJECT: IN THE MATTER OF THE APPLICATION OF LEVEL 3 COMMUNICATIONS, LLC, BROADWING COMMUNICATIONS, LLC, GLOBAL CROSSING TELECOMMUNICATIONS, INC., TELCOVE OPERATIONS, LLC, TW TELECOM DATA SERVICES, LLC, AND WILTEL COMMUNICATIONS, LLC, FOR APPROVAL TO PARTICIPATE IN A FINANCING ARRANGEMENT (FILED JUNE 3, 2014) PSC DOCKET NO. 15-1024

Application:

On June 3, 2015 Level 3 Communications, LLC ("Level 3 LLC"), Broadwing Communications, LLC ("Broadwing"), Global Crossing Telecommunications, Inc. ("GC Telecommunications"), TelCove Operations, LLC ("TelCove"), tw telecom data services llc ("tw telecom"), WilTel Communications, LLC ("WilTel"), Level 3 Communications, Inc. ("Level 3"), and Level 3 Financing, Inc. ("Financing") collectively referred to as the ("Applicants") filed an application with the Delaware Public Service Commission ("Commission") seeking authorization to participate in certain financing arrangements recently completed by Level 3 and Financing.

Applicants:

Level 3 LLC is a Delaware limited liability company, and is a wholly-owned subsidiary of Financing, which, in turn, is a wholly-owned subsidiary of Level 3. The principal office is located at 1025 Eldorado Boulevard, Broomfield, CO 80021. Level 3 LLC was granted a Certificate of Public Convenience ("CPCN") to provide intrastate long distance and local exchange telecommunications services within the state of Delaware on December 1, 1998 by Public Service Commission ("PSC") Docket No. 98-114, Order No. 4969.

Broadwing is authorized to provide intrastate long distance and competitive local exchange telecommunications services pursuant to authority granted in Commission Order No. 6174.

GC Telecommunications is authorized to provide intrastate long distance telecommunications services and was granted a CPCN on December 20, 1995 in PSC Docket No. 95-194, Order No. 4102.¹

Telecove is authorized to provide facilities-based common carrier and resold local exchange and interexchange services and was granted a CPCN in Docket Nos. 00-403 and 04-0226-T, Order No. 5586.

tw telecom is authorized to provide competitive facilities-based and resold local exchange and intrastate long distance telecommunications services and was granted a CPCN in PSC Docket No. 14-117, Order No. 8591.

WiTel is authorized to provide resold telecommunications services and was granted a CPCN in PSC Docket No. 99-25, Order No. 5037.

Level 3 Communications, Inc. is a Delaware corporation, and the parent to Financing and the indirect parent of Level 3 LLC. Neither Level 3 Inc. nor Level 3 Financing is a certified telecommunications service provider in Delaware or elsewhere.

Level 3 Financing, is a Delaware corporation, and is wholly-owned by Level 3 Inc., and a direct parent of Level 3 LLC and other subsidiaries.

Transaction:

The purpose of this docket is for authorization for Level 3 LLC, Broadwing, GC Telecommunications, TeleCove, tw telecom and WiTel to participate in two financing transactions recently completed by Level 3 and Financing. Level 3 and Financing are not required to acquire Commission approval for these transactions because they are not Commission regulated entities in Delaware.

In the first transaction, Financing issued \$700 million aggregate principal amount of its 5.125% Senior Notes due in 2023, and \$800 million aggregate principal amount of its 5.375% Senior Notes due in 2025. The proceeds of this offering were lent to a subsidiary of Financing, Level 3 LLC, in return for intercompany demand notes issued by Level 3 LLC to Financing in the aggregate amount of \$1.5 billion. The net effect of the generation of these proceeds will be the redemption of all of Financing's outstanding \$1.2 billion aggregate principal amount of its 8.125% Senior Notes due in 2019 and all of Level 3's outstanding \$300 million aggregate principal amount of 8.875% Senior Notes due in 2019.² Level 3 LLC is requesting Commission approval to act as a guarantor of the \$1.5 billion aggregate principal amount of Notes issued by Financing.

¹ The original CPCN was granted to Allnet Communications Services, Inc., d/b/a Frontier Communications Services in PSC Docket No. 95-194 Order No. 4102.

² In PSC Docket 11-219 and 11-536, Order No. 8115, Level 3 LLC was granted approval to guarantee the 8.125% Notes due in 2019.

In the second transaction, Level 3 and Financing entered into a new term loan arrangement (“Term Loan II”) in aggregate principal amount of \$2 billion to refinance a Term Loan (“Term Loan I”) set to mature in 2022, for which the Applicants pledged assets and acted as guarantors pursuant to Commission approval.³ The proceeds of the Term Loan II were used to prepay, in full, the existing \$2 billion Term Loan I, that was also set to mature in 2022. The Term Loan interest rate was lowered in conjunction with this transaction, leading to a decrease in annual interest expenses by approximately \$20 million, and the proceeds of the Term Loan II were lent to Level 3 LLC in return for an intercompany demand note. The Applicants are requesting Commission approval to pledge their assets and act as guarantors in support of the Term Loan II.

Public Interest:

The Applicant’s assert that the public interest will be served. The transactions will allow the Applicant’s to refinance and extend the maturity dates of some of its obligations securing lower interest rates, thus reducing interest rate expense and future refinancing risks associated with the scheduled maturities of those obligations. The Applicant’s assert these transactions are in line with the ongoing effort to manage their maturity profile and strengthen their overall credit profile. The Applicants state that these financing arrangements will yield both financial and operational benefits that will benefit Delaware customers, will not result in a change in Applicants’ management or day-to-day operations. Furthermore, the transaction is expected to be transparent to customers, and is not expected to affect current operations of the Applicants, nor adversely affect competition for telecommunications service in Delaware. In addition, the Applicants have shown that the financing arrangements are for proper purpose, and are seeking the approvals of the regulatory authorities which are necessary for the financing to demonstrate that it is in accordance with the law.

Staff Recommendation:

Applications seeking financing approval by large multi-state resellers of competitive intrastate telecommunications services technically come under the provisions of 26 *Del. C.* §215 because the companies are deemed to be public utilities. The Applicants have represented that the financing proposal is in accordance with law, for a proper purpose, and consistent with the public interest. The Commission has previously allowed such applications to become effective by statutory approval without Commission action. The result seems appropriate under the circumstances. Staff, therefore, recommends that the Commission not act on this application. Under 26 *Del. C.* §215(d), the effect will be that the application is deemed to be approved by the Commission. Staff will also acquire verification from the Applicant that the proposed transaction and financing arrangements have been completed.

³ In PSC Docket No. 14-0229 on August 2, 2014 the Applicants were granted Commission approval, to pledge assets and act as guarantors in support of the \$2 billion term loan.